

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

-----X	:	
In re:	:	In Chapter 13
	:	
MAMADOU BAH	:	Bankruptcy No. 17-11515-ELF
	:	
Debtor(s).	:	
	:	
	:	
-----X	:	

**PHILADELPHIA GAS WORKS' LIMITED OBJECTION TO DEBTOR'S CHAPTER 13
PLAN**

Philadelphia Gas Works (hereinafter "PGW") hereby files its Limited Objection to the Debtor's Chapter 13 Plan. The Municipal Lien was filed by the City of Philadelphia on behalf of the Philadelphia Gas Works for gas service to the property 6530 Chester Avenue, Philadelphia, PA (the "Property") pursuant to 53 Pa. C.S.A. §7101 et seq. The lien is a statutory lien, not a judicial lien. PGW objects to the mischaracterization of its lien as "Judicial" under paragraph E. on page 2 under Debtor's Chapter 13 Plan which was filed on April 14, 2017.

While, PGW does not object to the entirety of the Debtor's Chapter 13 Plan, it is requesting that the mischaracterization of its liens be corrected in the Chapter 13 Plan.

PGW avers the following in its objection thereto:

1. On March 5, 2017, the Debtor commenced its bankruptcy proceeding in Chapter 13.
2. On April 14, 2017, Debtor filed its First Amended Chapter 13 Plan.
3. While PGW is included under Paragraph E. Other Secured Claims in its Chapter 13 Plan, Debtor has PGW listed as a "Judicial Lien."

4. PGW's interest in the Property is a statutory lien. PGW liens are municipal and statutory filed pursuant to 53 Pa.C.S.A. §7101 et seq. Under 66 PS §1414 (a): A city natural gas distribution operation furnishing gas service to a property is entitled to impose or assess a municipal claim against the property and file as liens of record claims for unpaid natural gas distribution service and other related costs...referred to as the Municipal Claim and Tax Lien Act ("MCTLA").
5. The municipal lien (Court of Common Plea Docket 160531251) is a statutory lien filed pursuant to 53 Pa. C.S.A. §7101 et seq. and is an in rem lien against the Property 6530 Chester Avenue, Philadelphia, PA for unpaid gas service. (See attached a copy of the Docket attached as Exhibit "A").

53 Pa.C.S.A. §7106(a) states:

"All municipal claims...which may hereafter be lawfully imposed or assessed on any property...shall be and are hereby declared to be a lien on said property, together with all charges, expenses and fees incurred in the collection of any delinquent account."

53 Pa.C.S.A. §7106(b) states:

"With the exception of those claims which have been assigned, any municipal claim, including interest, penalty and costs, imposed by a city of the first class, shall be a judgment only against the said property when the lien has been docketed by the prothonotary. The docketing of the lien shall be given the effect of a judgment against the said property only with respect to which the claim is filed as a lien..."

The United States Court of Appeals for the 3rd Circuit held that utility service liens are statutory liens. *Graffen v. City of Philadelphia*, 984 F.2d 96(3rd Cir. 1992) and *In re Townsend*, 27 B.R. 22 (M.D. of PA 1982). The municipal lien set forth above is purely statutory, which arises automatically and is not based on an agreement to give a lien or a judicial action.

WHEREFORE, Philadelphia Gas Works respectfully requests that this Court APPROVE the Debtor's Chapter 13 Plan **only** if Philadelphia Gas Works lien is identified correctly as a **Statutory Lien**.

Respectfully submitted,

PHILADELPHIA GAS WORKS

Dated: April 17, 2017

Respectfully submitted,
/s/ Pearl Pham
Pearl Pham
Senior Attorney
Philadelphia Gas Works
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Philadelphia, PA 19122
215-684-6227
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	:	
-----X	:	

CERTIFICATION OF SERVICE

I, Pearl Pham, attorney for Philadelphia Gas Works, hereby certify that a true and correct copy of the foregoing Philadelphia Gas Works' Limited Objection to Debtor's Chapter 13 Plan was served by the means designated below on the date set forth below, upon all parties including the following:

VIA ECF

Henry Alan Jefferson, Esq.
Jefferson Law, LLC
BNY Mellon Center
1735 Market Street, Ste. 3750
Philadelphia, PA 19103

William C. Miller, Esq.
Chapter 13 Trustee
1234 Market Street, Ste. 1813
Philadelphia, PA 19107

Dated: April 17, 2017

/s/ Pearl Pham
Attorney for Philadelphia Gas Works
800 W. Montgomery Avenue
Philadelphia, PA 19122
(215) 684-6227
pearl.pham@pgworks.com

EXHIBIT

“A”



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Civil Docket Report

A \$5 Convenience fee will be added to the transaction at checkout.

Case Description

Case ID: 160531251
Case Caption: CITY OF PHILA vs BAH MAMADOU
Filing Date: Saturday , May 28th, 2016
Court: JUDGMENTS
Location: City Hall
Jury: NON JURY
Case Type: CLAIM FOR GAS SERVICE
Status: GAS SERVICE CLAIM JDGMNT FILED

Related Cases

No related cases were found.

Case Event Schedule

No case events were found.

Case motions

No case motions were found.

Case Parties

Seq #	Assoc	Expn Date	Type	Name
1			PLAINTIFF	CITY OF PHILADELPHIA
Address:	c/o LAW DEPARTMENT 1515 ARCH ST, 14TH FLOOR PHILADELPHIA PA 19107	Aliases:	none	
2			DEFENDANT	BAH, MAMADOU
Address:	6530 CHESTER AVENUE PHILADELPHIA PA 19142	Aliases:	none	

Docket Entries

Filing Date/Time	Docket Type	Filing Party	Disposition Amount	Approval/ Entry Date
28-MAY-2016 09:00 PM	ACTIVE CASE			28-MAY-2016 09:00 PM
Docket Entry: <i>none.</i>				
28-MAY-2016 09:00 PM	GAS SERVICE CLAIM JDGMNT FILED	CITY OF PHILADELPHIA,	\$1,242.95	28-MAY-2016 09:00 PM
Docket Entry: <i>none.</i>				
28-MAY-2016 09:00 PM	CITY CHARGE	CITY OF PHILADELPHIA,		28-MAY-2016 09:00 PM
Docket Entry: <i>none.</i>				

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